

**BOROUGH OF BERNARDSVILLE**  
Mayor & Borough Council Meeting Minutes  
July 8, 2019

Mayor Canose called this meeting to order at 7:00 p.m. Present were Council Members John Donahue, Diane Greenfield, Jeff Hammond, Chris Schmidt, and Christine Zamarra. Also present were John Pidgeon, Borough Attorney, Ralph A. Maresca, Jr., Administrator/CMFO, and Anthony Suriano, Borough Clerk. Thomas O'Dea, Jr. was absent.

**STATEMENT OF PRESIDING OFFICER**

Notice of this meeting was provided to the Bernardsville News, Courier News and the Star Ledger, filed with the Municipal Clerk and posted on the Municipal Bulletin Board on December 11, 2018.

**PLEDGE OF ALLEGIANCE**

**PRESENTATIONS**

**Special Events for Fall and Winter**

Olivia Manning, Bernardsville Special Events Inc., spoke about upcoming events. Trunk or Treat will be on October 26<sup>th</sup> in the Library parking lot. Council consent was given for the use of the lot. December 7<sup>th</sup> is a tentative date for a holiday cookie crawl as they are looking to possibly partner with the Chamber of Commerce for a full day of holiday events. They are working with Chief Valentine to create a holiday parade which will include a float contest where residents and businesses will be invited to participate. They are looking to plan a movie night in September.

**APPROVAL OF MINUTES**

Ms. Greenfield moved approval of minutes from June 24, 2019. Mr. Donahue seconded and the motion was approved with five yes votes.

**OPEN SESSION**

Christina Gianni, Bling By Design and Highview Avenue resident, said she hopes that owners of empty storefronts are being held accountable through the property maintenance ordinance. Mayor Canose said we can refer her concerns to the Housing Advisory Committee as they are reviewing maintenance for commercial properties.

Hearing no further comments from the public, Mayor Canose closed the open session.

**ORDINANCES (Public Hearing)**

Mayor Canose opened the public hearing on Ordinance #2019-1807, **AN ORDINANCE AUTHORIZING INSTALLATION OF A SPEED HUMP ON WESLEY AVENUE AND SUPPLEMENTING AND AMENDING CHAPTER VII OF THE BOROUGH CODE ENTITLED “TRAFFIC”**.

Jackie Somers, Wesley Avenue, said she is speaking for herself and her family and they are not in favor of a permanent speed hump on Wesley Avenue. She said while she understands her neighbors' concerns, she does not believe that a speed hump is a solution for slowing traffic on Wesley Avenue. She recommended having an engineering study done and made the following suggestions as alternatives to a speed hump. Increasing active and regular enforcement, providing education about the speed limit being 15mph, and soliciting community involvement. Ms. Somers also suggested the borough consider making the speed limit 15mph on Church Street.

Jackie Cutrone, Wesley Avenue, said she is for a plan to slow the speed of traffic on Wesley Avenue, but suggested a temporary speed hump before a permanent one is installed in order to see how effective it is.

Elizabeth Leyland, Wesley Avenue, said she has seen traffic speeding on Wesley Avenue and is concerned for her four year old daughter's safety. She is in favor of any measure to control the speed on Wesley Avenue and in addition to a speed hump, she suggested painting the 15mph speed limit on the street at points of entry and painting thick lines on the road to create a rumble effect to slow cars as they pass over it. Regarding painting the speed limit on the street, Chief Valentine said only certain markings can be painted on roads and he would have to review the regulations to see if that would be possible. Ms. Leyland distributed letters from Tom Blackstock and Daniel Gold who are residents on Wesley Avenue that could not be present at this meeting. Mr. Blackstock's letter stated that he is in favor of any measures to control speed, he is concerned for his children's safety, and added that he has done research that shows that speed humps are most effective when used in multiples. Mr. Gold's letter said speeding is an issue on Wesley Avenue, and speed humps would provide residents with safety and reduce the number of cars that use Wesley Avenue as a cut thru. Chief Valentine said the police department has looked at speed control on Wesley Avenue in the past and he recommended not moving forward until a traffic engineer reviews this topic.

Bruce Goemaat, Wesley Avenue, said there are children who live on Wesley Avenue and he agrees that safety is a concern.

Mr. Hammond asked how much a traffic engineering study would cost. Chief Valentine said he did not have a definitive amount and would reach out to semi-retired engineer who did our last traffic study at a lesser cost. Funding would need to be approved by the CMFO.

Mayor Canose suggested carrying the public hearing to August 12<sup>th</sup>.

Chief Valentine distributed a speed study from January 2019 to the Borough Clerk.

Hearing no further comments from the public, Mayor Canose closed the public hearing. Mr. Hammond moved to carry this ordinance to the August 12, 2019 meeting with no further publication notice. Mr. Schmidt seconded and a call of the roll followed. Council Members Donahue, Greenfield, Hammond, Schmidt, and Zamarra voted yes.

Ms. Zamarra moved that Ordinance #2019-1808, **AN ORDINANCE AUTHORIZING CERTAIN BOROUGH OFFICES AND EMPLOYEES TO USE STANDARD ELECTRONIC FUNDS TRANSFER TECHNOLOGIES FOR ELECTRONIC FUNDS TRANSFERS AND SUPPLEMENTING AND AMENDING CHAPTER II OF THE BOROUGH CODE ENTITLED “ADMINISTRATION”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., August 12, 2019. Mr. Hammond seconded and the motion was approved with five yes votes.

Mr. Schmidt moved that Ordinance #2019-1809, **AUTHORIZING THE LEASE OF THE DUNSTER-SQUIBB PROPERTY (BLOCK 80, LOTS 14 AND 14.1) TO THE FRIENDS OF HISTORIC BERNARDSVILLE, INC.**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., August 12, 2019. Ms. Greenfield seconded and the motion was approved with five yes votes. It was suggested to invite Dan Lincoln, Chair of HPAC, to the August 12<sup>th</sup> public hearing to answer any questions that may come up.

Mr. Schmidt moved that Ordinance #2019-1810, **AN ORDINANCE PROHIBITING MARIJUANA FACILITIES AND SUPPLEMENTING AND AMENDING SECTION 12 OF THE BOROUGH LAND USE ORDINANCE ENTITLED “ZONING”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., August 12, 2019. Ms. Greenfield seconded. Mr. Hammond asked why this ordinance is coming up since we have discussed in the past that when the state eventually makes their regulations and laws, then previous ordinances from municipalities are moot. Mr. Pidgeon said this deals with medical facility marijuana and the main point with this ordinance is to prohibit medical marijuana. Mayor Canose said right now medical is allowed and anyone can open a facility in town. Mr. Pidgeon said this ordinance is a stop gap until future legislation is determined. Mr. Hammond said he is concerned about the prohibition of medical marijuana and the language in this ordinance is vague. Mr. Schmidt said he is not for allowing marijuana and there are other places such as Morristown and Summit with proposals for dispensaries and feels we do not need one in Bernardsville. Mr. Donahue said this ordinance creates a barrier for someone wanting to start a facility and make them look elsewhere to where it would be welcomed. The motion and second for introduction was made before discussion. The motion was approved with three yes votes by Mr. Donahue, Ms. Greenfield, and Mr. Schmidt. Mr. Hammond and Ms. Zamarra voted no.

Ms. Zamarra moved that Ordinance #2019-1811, **ESTABLISHING CHAPTER 70 “THIRD-PARTY PAYROLL DISBURSEMENT”**, be introduced by title, passed on first reading, published according to law, and that a public hearing be scheduled for a meeting beginning at 7:00 p.m., August 12, 2019. Ms. Greenfield seconded and the motion was approved with five yes votes.

**RESOLUTIONS**

- #19-141      AUTHORIZING PAYMENT OF BILLS**
- #19-142      ACCEPTING MONTHLY DEPARTMENT REPORTS**
- #19-143      AUTHORIZING THE ADMINISTRATOR TO HIRE A PART TIME FIRE INSPECTOR**
- #19-144      AUTHORIZING CHANGE NO. 1 (FINAL) TO CONTRACT WITH MESSERCOLA EXCAVATING, INC. FOR ANN STREET DRAINAGE IMPROVEMENTS**
- #19-145      AUTHORIZING SUBMISSION OF 2020 LOCAL AID GRANT APPLICATION (Washington Corner Road Project)**
- #19-146      CONSENTING TO ASSIGNMENT OF SUMMIT MEDICAL GROUP LEASE FOR SUITE 102 IN LOWER LEVEL OF LIBRARY**
- #19-147      AMENDING BOROUGH PERSONNEL POLICY AND PROCEDURES MANUAL AND EMPLOYEE HANDBOOK WITH RESPECT TO PART-TIME EMPLOYEE VACATIONS**

Regarding Resolution #19-147, Mr. Walker explained that the resolution lowers the threshold for part-time employees to qualify for vacation from an average of 25 hours per week to 22 hours per week since the maximum hours per week a part-time employee can average is 28.

Ms. Greenfield moved to adopt Resolutions #19-141 to #19-147. Ms. Zamarra seconded the motion and a roll call vote followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, Mr. Schmidt, and Ms. Zamarra voted yes.

**Municipal Attorney’s Report**

There were no comments or questions from council on Mr. Pidgeon’s report of July 2, 2019.

**Council Committee Reports**

**Engineering, Technology & Public Works Committee**, Mr. Schmidt said milling has started on Anderson Hill Road and there will be a detour. Morris County will be paving their portion of Mendham Road up to Route 24 one side at a time to avoid detours.

Due to the timing from the last council meeting to this meeting, there was no report from the **Public Safety Committee, Finance Committee, or Personnel Committee.**

**Other committee/commission reports**

There were none.

**Council Liaison Reports**

There were none.

**Plan Endorsement Pre-Petition Process Proposal**

John Szabo, Borough Planner, was present and read the Planning Board’s recommendations on this proposal. They suggested that we request additional detail for Article III of Burgis’ proposal to include pros/cons for continuing the process, an outline of potential (monetary and/or non-monetary) returns to the borough from receiving Plan Endorsement, and a recommendation letter on whether or not the borough should proceed. Mr. Szabo said he spoke to Walter Lane of the Somerset County Planning Board, who encouraged the borough to participate and offered any resources he can lend to us, short of actual money. Mr. Szabo said the borough has nothing to lose in advising the state of our interest in filing the pre-application, and in their conversation, Mr. Lane agreed with this advice. Mr. Szabo said if we have this endorsement, the borough could have an advantage over other towns. Ms. Zamarra moved to authorize the Mayor to send a letter indicating filing pre-application to the state as outlined by Burgis Associates and to authorize Burgis Associates’ proposal in an amount not to exceed \$3,000 and subject to certification of funds available by the Finance Officer. Mr. Donahue seconded and the motion was approved with five yes votes. **(This was later assigned as RESOLUTION #19-149, AUTHORIZING THE MAYOR TO SEND A LETTER TO THE STATE OF NEW JERSEY TO BEGIN THE PLAN ENDORSEMENT PRE-PETITION PROCESS AND AUTHORIZING BURGIS ASSOCIATES TO PERFORM THE RELATED WORK ASSOCIATED TO THIS PROJECT)**

**Open Space Referendum**

Mr. Hammond said while he is in favor of 100% flexibility, he feels that having no sunset is a disservice and he cannot support this resolution without that clause. Ms. Greenfield moved adoption of Resolution #19-148, **AUTHORIZING A PUBLIC QUESTION TO BE**

**SUBMITTED TO THE VOTERS GIVING THE GOVERNING BODY GREATER DISCRETION AS TO HOW TO ALLOCATE MONEY FROM THE BOROUGH OPEN SPACE TRUST FUND FOR EITHER THE ACQUISITION OF LAND FOR RECREATION AND CONSERVATION, FARMLAND AND HISTORIC PRESERVATION PURPOSES OR FOR THE DEVELOPMENT OF THOSE LANDS.**

Mr. Donahue seconded and a roll call vote followed. Mr. Donahue, Ms. Greenfield, Mr. Schmidt, and Ms. Zamarra voted yes. Mr. Hammond voted no. The Borough Clerk will send a certified copy of this resolution to the Somerset County Clerk.

**Draft Ordinance Appropriating Money from the Open Space Trust Fund**

Mayor Canose mentioned a past resolution, #2010-100, that called for five committees to review this type of ordinance and report back to council with their recommendations. The Borough Clerk was directed to send a copy of this draft ordinance to the Recreation Committee, Shade Tree Committee, Environmental Commission, HPAC, and Open Space Advisory Committee and ask for their recommendations by August 5<sup>th</sup> so we would have them all back to consider introducing this ordinance on August 12<sup>th</sup>. It was noted that the amounts in the draft ordinance are estimates, but the total will be \$146,000.

**Property Maintenance Ordinances**

Mr. Walker said in speaking with the Zoning Department, we do not have a means of enforcement for residents who are not maintaining their property. He suggested an ordinance that will put a lien against on a property that is not being properly maintained. There is a procedure where a summons is issued and then fines are handed out in court, but while the procedure is taking place, the issue with the property, for example tall grass, keeps getting worse. Under a new ordinance, the borough would front the money and set up a contractor to do the cleanup and be able to place a lien on the property. Mr. Pidgeon will review the statute to see if we can have such an ordinance and follow up with Mr. Walker.

**Somerset Hills Mountaineers Equipment Damage Costs**

Mayor Canose asked council if they would be willing to have the borough pay for half of the fee for the damage to Somerset Hills Mountaineers' equipment as a good gesture from the borough and to take some of the responsibility for the damage. Half of the invoice the Mayor provided would be a cost of \$2,500. Mr. Donahue moved to pay \$2,500 toward the cost of damage to Somerset Hills Mountaineers' equipment. It was noted this motion is contingent on signing a release of no liability to the borough and a certification of funds available from the CMFO. Ms. Zamarra seconded and a roll call vote followed. Mr. Donahue, Ms. Greenfield, Mr. Hammond, Mr. Schmidt, and Ms. Zamarra voted yes.

### **Appointments to the Cultural Arts Committee**

Mayor Canose suggested the following appointments to the Cultural Arts Advisory Committee. Patrice Cummings, Margot Lewis, Olivia Manning, Jessica Mauceri, Matt Marino, Gretchen Dempsey, Kathleen Palmer. Council Liaisons will be Christine Zamarra and Diane Greenfield. Ms. Zamarra moved approval of these appointments. Mr. Hammond seconded and the motion was approved with five yes votes.

### **Swim Team Picnic at the Bernardsville Pool**

Ms. Zamarra moved approval of the Swim Team picnic/barbecue with a gas grill and smoker on July 13<sup>th</sup> beginning at approximately 12:00 p.m. at the Bernardsville Pool. Mr. Donahue seconded and the motion was approved with five yes votes.

### **Mayor's Update**

Mayor Canose said on June 25<sup>th</sup> she met with Eric Stiles of the NJ Audubon, Lisa Plevins, Executive Director of the NJ Highlands Council, and Judy Thornton, Local Highlands Representative. There are a lot of grants available through the Highlands, particularly grants involving downtown areas and she will meet with them again to see how we can apply for some of the grants that they have. On June 26<sup>th</sup>, Mayor Canose attended the third meeting of the Somerset County Preservation Plan, and they are doing a master plan for farmland, historic, tourism, open space, and recreation. In about one month, the final plan can be found on the county's website for public review and comments. On June 27<sup>th</sup>, Mayor Canose attended Roselle Bank's 130<sup>th</sup> anniversary. Kevin Corbett, Executive Director of NJ Transit was the speaker at a recent meeting that the Mayor attended. They are doing a lot to rework the image of NJ Transit. The Mayor asked Mr. Corbett about our train station and he said right now they are researching all their assets and are not making decisions as to what they want to do with local buildings. Mr. Hammond asked about NJ Transit increasing direct service. Mayor Canose said they stated that is difficult to accomplish and will not happen soon. Mr. Hammond asked about the train horn noise brought up at a prior meeting by Mr. Ruschmann. Mayor Canose said she has not heard anything more from Mr. Ruschmann after he was put into contact with NJ Transit and she was going to follow up with him. Pat Kennedy Grant has retired from the Library.

### **Correspondence**

**2019 Bike MS: Country Challenge**, this item was on the agenda to inform council of a bicycle tour on September 14<sup>th</sup> and 15<sup>th</sup> that will pass through a portion of Bernardsville. The sponsoring organization will provide insurance naming the borough as an additional insured and sign a hold harmless agreement. No action from council was needed.

**Unfinished Business**

There was none.

**New Business**

There was none.

**OPEN SESSION**

Steve Reynolds, Stevens Street, asked if there is an ordinance against parking commercial equipment and trucks in residential driveways. It was answered yes. Mr. Reynolds asked if fines could be issued. Mr. Pidgeon said it would be through a court summons. Mr. Reynolds said he approached Geoff Price, Zoning Officer, about a truck parked at 17 Stevens Street and since the title could not be located there was nothing that could be done. Mr. Walker will follow up with Mr. Price.

Mr. Reynolds asked when the dirty soil from Stevens Street and Woodland Road will be tested. Mr. Walker said the soil from Stevens Street was drawn last Wednesday and results should be in by this Thursday or Friday and soil from Woodland should be tested tomorrow. Mr. Reynolds said it should be tested relative to NJ Residential Clean Soil Standards. He suggested that when the test results are in and everything is clean, the area should be raked to get any rocks out and then topsoil should be put it. He said he would like to know where we are lacking in the process of importing soil and offered assistance if needed.

Kerry Haselton, Mine Brook Road, said the items in Item 10C are two year totals and not one year. She said she is glad council is going through the process per Resolution #2010-100 of having five committees review the types of ordinances that spend open space money.

Olivia Manning, Orchard Street, said she is under the impression that commercial properties are empty for as long as they are because the tax benefit they receive for being empty outweighs the amount of rent they would receive. She asked if we could do anything to prohibit an owner for leaving a commercial property vacant for a certain period of time. Mr. Pidgeon said through changing the property maintenance ordinance we can require conditions for vacant properties such as having the property maintained and the windows being covered but we could not put a time limit on how long it could stay vacant. Ms. Greenfield asked if we could do anything about the rent if it becomes too high. Mr. Pidgeon said no. Ms. Manning said trees on Mount Airy Road are overgrowing onto the walls and asked who is responsible. Mayor Canose said Somerset County is responsible and Ms. Manning should talk to Mr. Macdowall who could inform the county.

Mr. Hammond said the six towns that currently have marijuana dispensaries are Cranbury, Egg Harbor, Woodbridge, Bellmawr, Montclair, and Secaucus.

Hearing no further comments from the public, Mayor Canose closed the open session.

**CLOSED SESSION**

It was moved to adjourn to an executive session to consider Property Acquisition, Pending Litigation and Personnel Matters and that the time when and circumstances under which the matter can be disclosed to the public is when it is finally resolved. The motion was seconded and approved with five yes votes.

**REOPEN**

It was moved and seconded to reopen the meeting to the public. The motion passed with five yes votes.

**ADJOURNMENT**

The meeting was adjourned at 9:40 p.m.

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